

REMARKS

Applicants have thoroughly considered the Examiner's remarks in the August 7, 2009 Office action and have amended the application to more clearly set forth aspects of the claims. This Amendment D amends claims 1, 11, and 22. Claim 7 has been canceled. No new matter has been added.

Claims 1-6, 8, 10-15 and 22-29 are thus presented in the application for further examination. Reconsideration of the application as amended and in view of the following remarks is respectfully requested.

Applicants request that the Examiner now have the drawings as originally filed reviewed and accepted.

Claim Rejections Under 35 U.S.C. § 102**Claims 1-6, 10-15, and 22-25**

Claims 1-6, 10-15, and 22-25 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Horvitz et al. (U.S. Patent No. 6,980,993). Applicants respectfully submit that Horvitz does not anticipate each and every aspect of these claims as amended.

As amended, independent claim 1 incorporates the subject matter of claim 7 (now canceled), namely, "selecting one of the content type attributes further comprises selecting the content data attribute having content data with the longest length based on a size restriction of a display associated with the user device". The Examiner acknowledges that Horvitz does not teach this feature. Because Horvitz cannot anticipate each and every feature of amended claim 1, Applicants now seek disqualification of this reference under 35 U.S.C. § 103(c)(1).

As indicated by the Examiner, Horvitz and the instant application are commonly owned by Microsoft Corporation, Redmond WA. Horvitz is valid prior art only under 35 U.S.C. § 102(e), which states in part:

"..the invention was described in - (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a **patent granted on an**

application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language" (emphasis added).

Applicants submit that the Horvitz reference is disqualified as Section 103 prior art under 35 U.S.C. § 103(c)(1):

"Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, **shall not preclude patentability** under this section where **the subject matter and the claimed invention were**, at the time the claimed invention was made, owned by the same person or **subject to an obligation of assignment to the same person**" (emphasis added).

The primary reference of Horvitz is not prior art under Section 103(c)(1) because Horvitz and Applicant's instant application are commonly owned. Therefore, the Office cannot maintain a rejection of claim 1 under Section 103 based on Horvitz in combination with another reference, such as Montagna et al. (U.S. Patent Publication No. 2004/0242322), which does not anticipate each and every aspect of the claim. Applicants request that the 35 U.S.C. § 103 rejection of claim 1, as amended to incorporate the subject matter of claim 7, be withdrawn. In support of these remarks, Applicants hereby submit the following:

1. Recorded Assignment dated 11/20/2003 for Applicant's instant application.
Reel/Frame: 014742/0371.
2. Recorded Assignment dated 07/08/2002 for U.S. Patent No. 6,980,993.
Reel/Frame: 0132062/0751.

Claims 2-6, 8, and 10 depend from allowable claim 1, and are believed to be allowable for at least the same reasons.

Amended independent claim 11 recites features similar to those of claim 26, including "storing non-rendered content data **relating to the set up of an online game**", a configuration component "to determine a single fidelity measure of **a gaming console** singularly indicating the total capability of **the gaming console** to render the plurality of multimedia components of the notification", and a filter component "to select one of the content type fields from the data structure accessed by the interface component for processing by the **gaming console** based on the fidelity measure determined by the configuration component, wherein the **gaming console** receiving the notification executes an application, said application performing an action based on the non-rendered content data of the notification, and wherein the **gaming console** renders the notification in accordance with the fidelity measure". In the rejection of claim 26, the Examiner acknowledges that Horvitz alone does not disclose all of these features. Hence, amended claim 11 is not anticipated by Horvitz, and is further distinguishable over other cited art. At least because Horvitz has been disqualified as prior art under Section 103(c)(1), Applicants submit claim 11 is allowable.

Claims 12-15 depend from allowable claim 11, and are believed to be allowable for at least the same reasons.

As amended, independent claim 22 recites features similar to allowable claim 26, including, among other things, "a second memory area to store a single fidelity measure of **a game console** associated with the user, said fidelity measure singularly indicating the total capability of the **game console** to render the plurality of multimedia components of the notification; and an alerts service adapted to receive a data packet from a content provider and deliver the received data packet to the **game console** based on the routing preferences stored in the first memory area, the fidelity measure stored in the second memory area, wherein said received data packet includes non-rendered content **relating to the set up of an online game** on the **game console**, and

wherein the **game console** receiving said data packet renders the notification in accordance with the fidelity measure". Again, the Examiner acknowledges in the rejection of claim 26 that Horvitz alone does not disclose all of these features. Inasmuch as Horvitz does not anticipate amended claim 22 and has been disqualified as prior art under Section 103(c)(1), Applicants submit claim 22 is allowable.

Claims 23-25 depend from allowable claim 22, and are allowable for at least the same reasons as the claim from which they depend.

Claim Rejections Under 35 U.S.C. § 103

Claims 7-8

Claims 7 and 8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Horvitz in view of Warsta et al. (U.S. Patent Publication No. 2004/0181550).

Claim 7 has been canceled by this Amendment D. As discussed above, Horvitz is not valid 103(a) prior art. Accordingly, Applicants request that the 35 U.S.C. 103(a) rejection of claim 8 be withdrawn.

Claims 26-29

Claims 26-29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Horvitz in view of Montagna et al. (U.S. Patent Publication No. 2004/0242322). Applicants respectfully submit that Horvitz is not valid 103(a) prior art and, thus, the rejection of claims 26-29 must be withdrawn.

Conclusion

Applicants submit that the claims are allowable for at least the reasons set forth herein. Applicants thus respectfully submit that claims 1-6, 8, 10-15, and 22-29 as presented are in condition for allowance and respectfully request favorable reconsideration of this application.

Although the art made of record and not relied upon may be considered pertinent to the disclosure, none of these references anticipates or makes obvious the recited aspects of the claims. The fact that Applicants may not have specifically traversed any particular assertion by the Office should not be construed as indicating Applicants' agreement therewith.

Applicants wish to expedite prosecution of this application. If the Examiner deems the application to not be in condition for allowance, the Examiner is invited and encouraged to telephone the undersigned to discuss making an Examiner's amendment to place the application in condition for allowance.

The Commissioner is hereby authorized to charge any deficiency or overpayment of any required fee during the entire pendency of this application to Deposit Account No. 19-1345.

Respectfully submitted,

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